

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MESHA GERKEN, BRENDAN STARKEY,
and HEATHER STARKEY,

Plaintiffs,

v.

1:19-cv-860-WJ-SCY

DOMENIC CHARLES MILES and
PROGRESSIVE DIRECT INSURANCE COMPANY,
d/b/a PROGRESSIVE NORTHERN INSURANCE COMPANY,

Defendants.

ORDER DENYING AS MOOT
DEFENDANT CHARLES MILES' MOTION TO CONSOLIDATE


THIS MATTER is before the Court on Defendant Domenic Charles Miles' ("Defendant's") Motion to Consolidate (**Doc. 14**). Having reviewed the parties' briefing and considered the applicable law as well as the procedural developments in this case, the Court finds that the Motion is now moot and, as such, is **DENIED as moot**.

Defendant sought to consolidate this matter with *Progressive Direct Insurance Company, d/b/a Progressive Northern Insurance Company, Plaintiff vs. Mesha L. Gerken, Defendant and Mesha L. Gerken, Counter Plaintiff vs. Progressive Direct Insurance Company, d/b/a Progressive Northern Insurance Company, Counter Defendant and Mesha L. Gerken, Brendan Starkey, and Heather Starkey, Third-Party Plaintiffs vs. Domenic Charles Miles and Progressive Direct Insurance Company, d/b/a Progressive Northern Insurance Company, Third-Party Defendants*, No. 1:19-cv-00864, ("*Progressive v. Gerken*") pursuant to Federal Rule of Civil Procedure 42(a). On November 22, 2019, U.S. District Judge Kenneth Gonzales, the presiding Judge in *Progressive v. Gerken*, remanded that case to state court. (*See Progressive v. Gerken*, Doc. 28.) Because that

case is no longer pending in this federal district court, it cannot be consolidated into this one. Moreover, this Court agrees with the sound reasoning of Judge Gonzales and agrees that the Motion to Remand (*Progressive v. Gerken*, Doc. 13) was rightly decided before the instant Motion to Consolidate.

THEREFORE, for all the reasons stated herein, Defendant's Motion to Consolidate is **DENIED** as moot.

IT IS SO ORDERED.



CHIEF UNITED STATES DISTRICT JUDGE